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ABSTRACT

This publication examines a number of key issues and recent trends related to the general topic of school finance. Chapter 1 reviews several significant court cases challenging state school finance systems, including San Antonio Independent School District v. Rodriguez, Robinson v. Cahill, and Serrano v. Priest. Chapter 2 describes major new school finance legislation enacted by state legislatures in early 1973, including new laws passed in Kansas, Montana, North Dakota, and Utah, and a proposed Oregon law that was defeated in a referendum election. Chapter 3 discusses recent proprety tax reform legislation in the states of Maryland, Florida, and California. Chapter 4 briefly examines the special problems involved in financing urban schools and describes recent legislative approaches taken in Minnesota, Ohio, and New York. Chapter 5 discusses the issue of local control in education as it relates to increased state funding for schools. Chapter 6 considers the topic of educational accountability, first focusing on the difficulty of implementing an accountability system, and then briefly describing examples of state accountability legislation. (JG)

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THE STATES AND SCHOOL FINANCE

-- AFTER RODRIGUEZ

A Background Paper
for the
National Governors' Conference
and the
National Legislative Conference

Prepared by
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INTRODUCTION

The problem of school finance was placed squarely in the laps of the states when the U.S. Supreme Court said recently that it would not get involved. This paper reviews the court's *Rodriguez* decision, some of the most significant cases pending in state courts and related decisions.

Major changes in school finance systems adopted this year in Kansas, Montana, North Dakota and Utah are reviewed. A sweeping change proposed in Oregon, which was defeated in referendum, is also reviewed.

Changes made in *property tax laws* are also considered. Although much of the new legislation deals with tax relief, reforms in administration of the property tax have been adopted in Maryland, Florida and California. Several states have adopted legislation aimed at consolidating assessment districts.

Special problems involved in financing schools in *urban areas* are analyzed. The issue of *local control* is discussed in connection with the possible impact of increasing state funding for schools. *Accountability* is the last topic covered. This discussion focuses first on the problems involved in implementing an accountability system. It then turns to examples of state legislation in this field.

1. THE COURTS AND SCHOOL FINANCE

Wide variations in school district spending levels within states have survived the federal test of 14th Amendment protection, but state school finance systems face continued challenges in state courts. Although inter-district variations have been the prime target of recent court actions, three other major areas have been challenged by recent suits: (1) the allocation of funds within school districts, (2) the provision of special education and (3) the provision of bilingual education.

This paper focuses primarily on the court cases challenging state systems in which school expenditures vary according to the wealth of the property tax base of school districts. Examples of the other types of cases are included to indicate the far-reaching implications of court action.

Interdistrict Variation: The Serrano-Type Cases

In *San Antonio Independent School District vs. Rodriguez*, the U.S. Supreme Court overturned a lower federal court decision and held that the Texas school finance system does not violate the equal protection clause of the U.S. Constitution. The suit claimed that the Texas system discriminates against "school children throughout the state who are members of minority groups or who are poor and reside in school districts having a low property base." In upholding the Texas system, however, the court pointed out the need for school finance reform. It noted that reform was up to states.

Justice Powell, in the majority opinion, identified two questions as central in the case. The first question is whether or not the Texas system (a) discriminates against a "suspect class" or (b) impinges on a constitutionally protected "fundamental right" and therefore requires "strict

judicial scrutiny" or a demanding examination of how closely the system's purpose is matched by the means the state uses to achieve it.

If neither part of the first question is answered in the affirmative, the second question is whether the Texas system "rationally furthers some legitimate, articulated state purpose."

The court held that, although per-pupil spending varies according to the local tax base, no "suspect class" can be adequately identified as the target of discrimination. It disputed arguments which claimed that poor families live mainly in poor school districts; it noted that those in poor districts were not absolutely deprived of public education; it held that the class of all those who live in comparatively poor districts is "too large, diverse and amorphous" to be considered "suspect."

On the question of education as a "fundamental right," the court said this is not determined by social importance and held that education is not among the rights recognized as constitutionally protected.

In applying the test of a rational relationship to a state purpose, the court found this rationality in the Texas system's preservation of the element of "local participation." Although local participation is the source of unequal spending, the court recognized the difficulty of balancing this value with that of providing a "minimum state educational program." It chose not to challenge the particular balance chosen by Texas.

The New Jersey Supreme Court, in *Robinson vs. Cahill*, accepted the U.S. Supreme Court's reasoning on the application of the equal protection clause of the U.S. Constitution. It entertained the possibility that a similar clause in the state constitution might be applicable. It found,

however, that such an application would become "unmanageable" by calling into question the delegation of powers to fiscally responsible local governments.

The New Jersey court went to a constitutional provision dealing specifically with education which mandates "the maintenance and support of a thorough and efficient system of free public schools." The court dealt with the problem in terms of the level of spending per pupil because "dollar input is plainly relevant and because we have been shown no other viable criterion for measuring compliance with the constitutional mandate."

Two problems were found with the way the state delegated its responsibility for this mandate to local school districts. The first problem: The state never defined what the constitution required. The second problem: The responsibility was turned over to subdivisions which varied widely in wealth. It found that an unclear delegation of responsibility combined with unequal fiscal resources yielded an unconsitutional system. The New Jersey Supreme Court has since held hearings on the question of whether or not the judiciary should mandate relief by ordering that state school funds be distributed on a basis different from that previously determined by the legislature.

The New Jersey court pointed out that its decision did not exclude differences in spending levels based on regional cost differences or on the special needs of disadvantaged children. Although the discussion in the opinion was limited to school operating costs, the court noted that the state's obligation extends to capital expenditures as well.

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State constitutions and judicial precedents are now being examined to discover all possible bases for a requirement for equalizing the

resources available to school districts. Cases which have been based either entirely or partly on state constitutional grounds are being watched. Two cases in which decisions are expected soon are *Serrano vs. Priest* in California and *Hollins vs. Shofstall* in Arizona.

The August 1971 landmark decision of the California Supreme Court in *Serrano vs. Priest* overturned a lower court's dismissal of the *Serrano* complaint as lacking a cause of action. The California Supreme Court found that, if the California school finance system is as it is described in the *Serrano* complaint and in judicially noticed state publications, it does in fact violate the equal protection clause of the U.S. Constitution. It noted that two provisions of the California constitution were "substantially the equivalent" of the equal protection clause, an observation which apparently protects this case from an automatic application of the *Rodriguez* decision. It was the *Serrano* decision which first enuciated the principle that the quality of a child's education cannot depend on the wealth of his parents and neighbors or his school district. The case was returned to the trial court to determine the facts in the case.

It should be noted that none of these cases held:

1. That the property tax is unconstitutional;
2. That the same dollar amount should be spent on each child;
3. That any specific school financing plan had to be adopted.

In *Hollins vs. Shofstall*, the Superior Court for Maricopa County accepted the reasoning in *Serrano* that education is a "fundamental interest." The court's reasoning, however, focused on the complaint as a taxpayer case rather than an education case. After noting that it could be misleading to compare per-pupil expenditures in various districts, the court said it would be a better test of the Arizona system to compare district tax rates and the amounts these raise per pupil.

The court compared two elementary school districts and found that one raised two and a half times the revenue per child with one-tenth the tax rate. In another comparison of two districts of comparable size, one raised more than five times the funds raised by the other, with a tax rate only 60 per cent as high. The superior court's ruling is on appeal to the Arizona Supreme Court.

Intradistrict Disparities

Although the most active area of school finance litigation has concerned differences in property wealth among districts, one of the first cases dealt with variations in spending within a school district--*Hobson vs. Hansen* in the District of Columbia in 1967. This case included a racial aspect. White schools were spending two to three times as much as black schools. Higher paid teachers generally taught in the white schools. The buildings and such facilities as cafeterias and gymnasiums for whites were in better condition than those available to blacks. The order in *Hobson* ruled that deviations of only five per cent would be permitted in the district's schools.

Special Education

Two cases are of special interest on the right of handicapped children to public education: *Pennsylvania Association for Retarded Children vs. Commonwealth of Pennsylvania* and *Mills vs. Board of Education in the District of Columbia.*

In the Pennsylvania case, the Pennsylvania Association for Retarded Children (PARC) and 14 mentally retarded children sued the state for failing to provide public education for all school-age retarded children. According to decrees finalized on May 3, 1972, the state cannot deny

mentally retarded children access to publicly supported education, including a public school program, tuition or tuition-maintenance and home-bound instruction; nor can a child's educational status be changed without due process. By September 1972, all retarded children in the state between the ages of 6 and 21 were to be provided a public education.

The *Mills* case, brought by the parents and guardians of seven children, extends the protection given in the PARC case to all handicapped children. The court's decision on August 1, 1972 noted that parents were required by law to have their children attend school and that the board of education was correspondingly required to provide an educational opportunity. In response to the claim that the board could not provide programs unless added funds were appropriated by Congress, the court said that the failure to provide special programs could not be excused by claiming insufficient funds. Lack of funds "certainly cannot be permitted to bear more heavily on the 'exceptional' or handicapped child than on the normal child," the court said.

Bilingual Education

Presently on appeal to the U.S. Supreme Court is *Lau vs. Nichols*, a suit aimed at requiring the San Francisco Unified School District to provide bilingual teachers to help the city's non-English-speaking Chinese children to learn English. The 9th U.S. Circuit Court of Appeals rejected the claim that these children were not receiving an education on "equal terms" with the rest of the children in the district. The board is only required to provide the same programs and services provided to all other children. Only one-fourth of the 1,790 non-English-speaking pupils in the system get full-time compensatory education; about half of the rest get one hour a day, the other half gets no special help.

The court held that the equal protection clause applied only where a claim is based on some sort of state action, while the handicap in this case is "the result of deficiencies created by the appellants themselves in failing to learn the English language." A dissenting judge said it did not make sense to blame the children for not learning English. He cited a group of decisions where states were required to give special treatment because of disadvantages not caused by state action, including the U.S. Supreme Court decision in *Griffin vs. Illinois* requiring the state to give "special services" to impoverished criminal defendants. In an argument similar to that used in the *Mills* case, the dissenting judge said that when a state has compulsory school attendance laws, it must give every child an equal educational opportunity.

2. *MAJOR NEW SCHOOL FINANCE LEGISLATION*

Kansas

In Kansas, Substitute Senate Bill 92 has been described as the most significant public school finance bill ever signed into law. The law will increase the state share of school costs from 29 per cent to 48 per cent.

Under the new plan, a "norm budget per pupil" is established for various enrollment categories. Median operating costs for these categories were used to develop the norm budgets. If a district chooses to spend at the norm budget level, it would be required to raise, through property taxes 1.5 per cent of local district wealth. Wealth is defined as the sum of equalized property value plus taxable income. If a district's budget per pupil is higher or lower than the norm, the 1.5 per cent local effort rate would be adjusted up or down proportionately. The norm budget for districts

of 1,300 students is $728 per pupil. Districts under 400 students will be guaranteed a per-pupil budget of $936 at the 1.5 per cent rate. For districts between 400 and 1,299, the norm budget decreases as enrollment increases. Districts that raise more than the norm budget per pupil do not lose the excess revenue to the state.

Substitute SB92 has been called a "power equalizing" bill since each school district will have the power to decide its level of spending per pupil. The higher the level of spending chosen, the greater the local effort required; the state makes up the difference between the tax revenues and the guaranteed spending level.

Property taxes are reduced by an estimated $53 million. The reduction is to be paid for with existing revenue in the general fund and with a 10 per cent rebate of state income taxes to local school districts.

Fifty-three school districts (17 per cent of the districts in the state) will receive less state aid under the new plan than in previous years; 29 of these districts will receive no aid at all. The 53 districts account for 5 per cent of the state's public school enrollment.

Montana

House Bill 428, which has been signed by the governor, is a bold equalizing plan. Prior to this bill, Montana had a foundation program which set minimum support levels for various enrollment categories. The state program supplemented funds from county levies where these revenues did not reach the foundation level. Counties were required to levy 40 mills, 25 mills for elementary schools and 15 mills for secondary schools to participate in the state foundation program. It was possible for many property-rich counties to meet the foundation level by levying only a fraction of the

of the rate required of participating counties. HB428 requires all counties to levy 40 mills. If the revenue produced is more than the foundation level the state recaptures the excess. Some property-rich counties will have to increase their levies by 20 to 30 mills. All the revenue produced by these new mills will go to equalize poorer counties.

Above the foundation level, local districts can levy 9 mills for elementary and 6 mills for secondary schools without a referendum. The state will make up the difference between what these mills produce and a sum equal to 25 per cent of the district's foundation level. The state is allowed to levy a statewide property tax to make up any deficiencies in the equalization program. School districts are still allowed to vote for extra mills for special programs, but the state does not guarantee the yield of these mills. The state imposes an expenditure limit on school districts based upon a percentage of the previous year's spending. Total state support of operational expenditures will be in the area of 30 per cent.

One pitfall of the new program is unequalized property assessments among the various counties. By requiring a 40-mill levy, the state has in effect established a state tax based on local assessments. Counties with lower levels of assessment will have lower tax bills, but the rate of return for schools is determined in advance by the state. Counties and school districts stand to gain by keeping assessed values low in relation to true or market value. Montana is in the process of making assessors agents of the state; this will eventually help to make assessments more uniform.

North Dakota

The North Dakota Legislature, in approving Senate Bill 2026, put into motion a $118 million foundation program, the most expensive piece of

legislation the state has ever known. It represents one-third of the state's total budget and it increases the state's share of the cost of education from 42 per cent to 70 per cent. Equalization and property tax relief were the key elements of the bill.

School districts will be required to roll back their local levies by 15 mills. This amounts to a total of $18 million in property tax relief over a two-year period. A companion bill cut income taxes $2.8 million and repealed the sales tax on groceries for another $8.7 million tax reduction. Total tax relief will amount to about $30 million for the biennium. The tax relief and the $118 million foundation program will mean that the state must come up with $39 million in new revenue. This is possible because of a $40 million carry over from the previous biennium plus conservative estimates on income and sales tax revenue over the past few years.

Oregon

Governor Tom McCall of Oregon proposed and got through the legislature the most sweeping change in any school finance system. But on May 1, 1973, the people of Oregon decisively turned down the plan in a vote of referendum.

Perhaps the most significant aspect of the McCall plan was the method of raising educational revenues proposed. The plan would have done away with (except for 2 mills) local property taxes for schools. Oregon would have replaced the lost revenue with increased personal and corporate income taxes and a statewide property tax levied on local assessments. The plan provided a method of equalizing the local assessments. The governor claimed that 85 per cent of the people of the state would have realized a tax decrease under the plan. Had the plan passed, Oregon would have been

providing 95 per cent of nonfederal school revenues with state funds, second only to Hawaii where the state provides 100 per cent.

House Bill 2004 would have given every school district a flat grant of $900 per pupil minus certain federal revenues. Weightings were established for grade levels. The 2-mill local effort plus a state equalizing grant would bring each district's spending up to $1,200 per weighted pupil. The bill provided for a 6 per cent annual inflationary increase. Local districts would still have been responsible for their indebtedness and interest on capital outlay as well as for 45 per cent of transportation costs.

The designers of the bill anticipated that opponents of the measure would charge that local control of school districts would be lost in a state-financed school system. The law provided, therefore, as legislative policy, that the provision of elementary-secondary education is the right and responsibility of locally elected school officials.

The bill was defeated in referendum; among the reasons which may have caused the defeat are: (1) fear of the unknown; (2) fear of a loss of local control; (3) fear of increased income taxes; and (4) opposition of some large business interests. The bill is important since it represents the first concerted effort of a state to take over substantially all the cost of financing education with one piece of legislation.

Utah

The Utah Legislature appropriated a record $22.6 million increase ($216 million total) in state school funds in SB72. The state will pay for approximately 72 per cent of school operating costs including transportation and school lunches. The most significant feature of Utah's new law is the

way it changes the formula for allocating revenue. Under the old law, revenue was allocated on the basis of distribution units (27 pupils in average daily attendance). The new law allocates revenue on the basis of the sum of (1) weighted students in average daily membership and (2) those in average daily attendance, divided by two. Weightings were developed from actual cost figures for the following categories: small schools, handicapped children (10 categories), vocational education, professional staff cost, administrative cost, kindergarten children and miscellaneous categories. The law has a system for calculating transportation costs. Revenue is also appropriated for a number of special categorical programs. Included among these are grants for instructional media centers, extended day and summer programs, community school programs, career education, experimental programs and culturally disadvantaged programs.

Another significant feature of the new law is its equalization formula. The law strengthens the old "power equalizing" plan in existence. Under the new law $508 will be guaranteed for each weighted student. Each school district must levy a 28-mill property tax. The state will make up the difference between what a 28-mill rate produces and an amount equal to $508 per weighted student. The state will recapture revenue in excess of $508 per weighted student. Districts can vote for an extra 10-mill tax. The state guarantees that these mills will produce $4 per weighted student. The revenue from assessed value per weighted student, which ranges among all school districts from $13,647 to $3,056, is equalized. School districts will spend an average of $613 per weighted student. The district with the greatest departure from that figure will spend only $34 per weighted pupil less than the average. Because of increased state funding no district will lose any revenue this year. Only one district will have to raise its tax levy.

3. PROPERTY TAX RELIEF AND REFORM

Property Tax Relief

Property tax relief has been one of the most popular kinds of legislation acted upon in recent state legislative sessions. Forty-nine states now either finance, mandate or authorize property tax relief for low-income, elderly homeowners. Arizona became the 49th state to adopt such legislation on May 9, 1973; that act includes an additional property tax relief measure which reduces by one-fourth the property taxes paid by all homeowners.

Nineteen states have not adopted "circuit-breaker" laws. These laws rebate money or give tax credits to taxpayers whose total tax bill exceeds a pre-set standard. Four states--Indiana, North Dakota, Nevada and Michigan--adopted "circuit-breakers" in 1973. Vermont beefed up an existing "circuit-breaker" law this year.

In the midst of this tax relief activity, some states have overlooked some sound principles of revenue theory. For example states are continuing to require local governments to grant exemptions without reimbursing these local governments for lost tax revenue. States are continuing to grant exemptions on the basis of the first $1,000 to $5,000 of *local assessed valuations*. Taxpayer resentment over property tax inequities may be curtailed by these relief programs. It should be remembered, though, that tax relief *does not* cure the administrative inequities of the property tax.

Property Tax Reform

Maryland - The biggest story to date in 1973 concerning property tax reform comes from Maryland. Maryland's reform efforts date back to 1959. The legislature in that year set up a Maryland State Department of Assessments and Taxation. The director is appointed by the governor and serves

under the state merit system. His department prepares and maintains all tax maps for local assessors. The department prescribes all local assessment forms and establishes procedures for their use.

Under the 1959 law, the state also set statutory minimum salaries for all grades of assessors and appraisers and paid 60 per cent of their salaries. The state certifies assessors and requires them to take an annual five-day training program.

The 1973 legislature has now passed HB531 which makes property assessment completely a function of the state. Assessors will be paid by the state and will be part of the state's merit system. Hawaii is the only other state with a state-administered system of property assessment.

Florida - Florida for the past two years has used a property tax ratio study conducted by the auditor general (an appointee of the legislature) to adjust the school finance formula. Where county assessments were shown to be below full market value, state school funds were reduced proportionally.

The system was thrown out by the courts in 1971 because of statistical weaknesses in the ratio study. In April 1973, the Florida Supreme Court upheld the lower courts: It said it was unconstitutional to use the studies to overturn decisions of a local tax assessor, because the office is created by the state constitution. The Florida Legislature recessed until a solution to unfair tax assessment practices could be developed.

In the meantime, HB1331, which passed the house by a vote of 100-7, remained in committee in the senate. The bill calls for broader state supervision of local assessment administration. The state would prepare and maintain a current manual of instructions for tax assessors as well as prescribe all forms to be used in assessment. The state would prescribe and

furnish aerial photographs and ownership maps to the assessors as necessary to insure that all property is listed on the tax rolls. The bill sets up a state property assessment loan fund to aid in the upgrading of local assessment practices. Under the bill, the state could refuse to certify tax rolls where assessments are deemed inconsistent with state law and sound assessment practices.

California - California has continued to make progress in reforming and strengthening its property tax system. One of California's outstanding programs has been the use of "multiple regression analysis" and computer-assisted assessment. These techniques provide tentative appraisal values whose accuracy can easily be checked. In some counties, assessments have become more accurate than those of even the best assessors who do not use this technology. The computer is putting an end to the need for cyclical re-evaluation over periods of four to six years because appraisals are kept fairly current.

California probably has the best state assessment ratio studies in the entire nation. The California State Board of Equalization directs the studies on the basis of appraisals carried out by its Intercounty Equalization Division. The studies, which are published and available to the public, provide an accurate measure of school district and county wealth. Thus the state can distribute equalizing aid on a rational basis.

Other States - Minnesota, Georgia, Tennessee, South Dakota and Florida have made recent progress in consolidating small assessment jurisdictions. In New York, Michigan and Illinois, consolidation is encouraged by law but it is not taking place.

Oregon should be noted for its achievement of raising the statewide ratio of assessed value to market value from 25 per cent to nearly 100 per

cent. This development, coupled with a strengthening of the state supervisory agency, has virtually achieved uniformity among counties in assessments. Remarkable progress has also been made on achieving uniformity within counties.

4. FINANCING URBAN SCHOOLS

The special problems confronting metropolitan schools are many and complex. For the sake of convenience, these problems are often classified under two main headings, municipal overburden and educational overburden. The complex of municipal overburden problems are those which are typical of large cities--unemployment, crime, substandard or old housing and so on--resulting in the need for large expenditures on sanitation, police and fire protection. The educational overburden problems are related to the special problems of the many poor children who attend urban schools, children who are classified as "disadvantaged" and who need compensatory education--special teachers, smaller classes and supporting materials and services.

The proportion of local revenues which may be reserved for education is dependent on the municipal overburden factor, a factor which consumes 65 per cent of a large city's resources as compared to the 45 per cent required in nonurban areas.[1] While the education overburden problems result in the need for higher than average spending in urban areas, the municipal overburden usually results in lower than average spending.

Efforts have been made at both the state and federal levels to alleviate the problems faced by large cities. With the passage of the Elementary and Secondary Education Act of 1965, the federal government mounted a frontal attack on the spcial needs of disadvantaged children. Federal revenue

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[1] Findings of the Commissioner's Ad Hoc Group on School Finance (HEW), part 16D-3, referred to by Abraham and Peel, "Serrano vs. Priest: Decision for Change," in *Urban Review*, June 1972, pp. 22-26.

sharing funds can be used by states to supplement their aid to the cities, freeing more of their local funds for education purposes. At the state level, programs have been implemented with the same objectives. In particular, programs in Minnesota, Ohio and New York have provided politically viable alternatives for coping with the problems of the cities.

Minnesota - The educational overburden problem was attacked in Minnesota by attaching a weighting of 1.5 for each AFDC (Aid for Dependent Children) pupil in the state to a foundation formula of $600 per pupil in fiscal 1972 and $750 per pupil in fiscal 1973. The municipal overburden problem has been relieved by a per-capita aid program to noneducation local governments, with a greater proportion being supplied to the Minneapolis-St. Paul area. This was accomplished by providing an additional $2 for each Twin City resident. These funds are distributed in proportion to the local noneducational tax effort.

Minnesota finances approximately 65 to 70 per cent of public education from state funds. As a result, educational funding relies heavily on state income and sales taxes rather than on local property taxes.

Ohio - In December 1971 the Ohio Legislature passed an omnibus tax bill which established both an income tax and a higher level of state funding for public education. (The state's share rose to 35 per cent.) Municipal overburden has been offset somewhat by adding the sum of $25 per pupil to total state aid for each student in districts of 70,000 or more, if 20 per cent of the children are disadvantaged (receiving aid to dependent children), and to districts of 20,000 or more if 50 per cent are disadvantaged. Education overburden has been provided for by additional aid for disadvantaged children. This aid was increased from $175 per disadvantaged pupil to $200 for districts with 50 or more disadvantaged children.

New York - Patterned in many ways after ESEA's Title I, New York's Urban Education Aid Program is distributing some $47 million to approximately 33 districts for special programs for disadvantaged children. Approximately 85 per cent of this aid goes to New York City. New York City is also benefited by a provision in the state funding program under which the city's aid is calculated for each of its five boroughs. This gives the city more state aid than the flat grant of $310 per pupil it would receive in a city-wide calculation (because of Manhattan's wealth). A third factor in the New York state distribution formula which benefits urban areas is a special provision for "size correction." Under this provision, additional funds are allocated to areas with high-population densities. These programs are supplemented by funds to localities from the New York state revenue sharing program. Revenue sharing funds from state income tax revenues are distributed to local governments on a per-capita basis.

5. *LOCAL CONTROL AND INCREASED STATE FUNDING*

Because alternatives for making the school finance system more fair generally entail an increased reliance on state funds, a key question arises on the controversial issue of local control. Local control can be defined as the control of the local school board over school district matters, including level of expenditure, curriculum, staffing, textbooks, teacher salaries and in many states school construction. It should be noted that one proposed alternative was designed to protect local control. This was "district power equalizing" (a technique for guaranteeing, through state aid, that a given tax rate will produce the same level of expenditure anywhere in the state). Under this plan, a district would still decide on its own level of spending.

A recent Brookings Institution study notes that the effect full state funding would have on local control is a matter of dispute. The authors note that one side argues that "local interest in determining how the money is spent will flag, or that local school administrators and school boards will seek to please the state department of education rather than local parents and voters."[2] Those pressing for special interest, such as collective bargaining for teachers, would tend to move their pressure to the state level, the argument continues.

But this shift in control is not inevitable, the authors say, pointing to a recent study by the Urban Institute. The Urban Institute study found "little direct relationship between the percentage of state aid provided and the degree of state restrictions on the operation of local school boards."[3] The study compared statutes and regulations in 10 states grouped into those providing high, moderate and low levels of state aid. Further study is required, the study noted, of the actual implementation of the laws and regulations reviewed before firm conclusions can be drawn; states which have recently increased their share of school costs should be studied to see if restrictions have increased.

The Fleischmann Commission, which proposed full state funding for New York, answered the traditional concern over the loss of local control by noting that local school boards, if relieved of the responsibilities of raising revenues and bargaining with teachers, would be free to concentrate on improving educational programs.[4] The commission noted, furthermore, that

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[2]Robert D. Reischauer and Robert W. Hartman, *Reforming School Finance* (Washington, D.C.: Brookings Institution, 1973), p. 55.

[3]Betsy Levin and Michael A. Cohen, *Levels of State Aid Related to State Restrictions on Local School District Decision-Making* (Washington, D.C., The Urban Institute, 1973), p. 4.

[4]Report of the New York State Commission on the Quality, Cost and Financing of Elementary and Secondary Education, (Fleischmann Commission), Volume 3, p. 11.3

there are no longer any "genuinely autonomous units" in the school system with the existing combination of local, state and federal funding.[5] The commission urged that more decisionmaking power be placed in the local schools. "The effective point for expression of citizen and parent-citizen interest in education," the commission said, "is the school, not the school district, for the school is the basic operating unit and cost center in the provision of educational services."[6] The commission urged that principals and "Parent Advisory Councils" be given greater responsibility in school decisions.

A point made by many studies is that local control, related to deciding the level of school district spending, does not really exist in districts which have a low property tax base. The same point is underscored in Justice Marshall's dissent in *Rodriguez* and in the California Supreme Court decision in *Serrano*. Lacking the fiscal capacity to raise more revenues through local property taxation, property-poor districts never face the choice of whether or not to spend money which is not available to them.

6. *ACCOUNTABILITY IN EDUCATION*

Citizen concern over rising school costs, higher property taxes, demands and strikes by teachers--along with no apparent increase in the quality of education produced--have set the stage for accountability.

If accountability means keeping better records, making actions more visible and keeping a better tally of what the extra dollars bought, then, few citizens will oppose the process.

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[5]Volume 1, p. 2.43

[6]Volume 1, p. 2.43

Some people take a simplistic view of accountability and maintain that it is merely an extension of democracy and local control. Obviously, accountability with its cost-benefit analysis and criterion-referenced tests is not that simple to implement or to operate.

The selection of appropriate professional and student criteria upon which to measure accountable schools is a start, but a host of other variables surround home, the school and the child. For the most part, these background variables have not been made a part of accountability legislation. To assume that student achievement scores can measure teacher-effectiveness is quite naive. On the other hand, equally inappropriate is the assumption that professional performance is beyond measurement.

In January 1973, 23 states had accountability legislation on the books. These ranged from joint resolutions establishing study committees to companion pieces of legislation designed to create a whole state system of accountability. Since January, 14 additional states have introduced accountability legislation.

A study made by the Cooperative Accountability Project, a seven-state USOE-funded project to study accountability, reveals that the majority of the 23 states have emphasized statewide testing, assessment and evaluation. Laws pertaining to educational management methods were second in emphasis, while performance-based evaluation and certification of teachers was the subject of legislation in eight states.

Characteristics of the existing accountability legislation were summarized by the Cooperative Accountability Project in the following manner:

I. State testing, assessment and evaluation:

   a. In 12 states, legislation was directed at the assessment of pupil achievement and the evaluation of school programs and curriculum.

b. Thirteen states assigned the administration and control of accountability to the state board or department of education.

c. Seven states advocated measurement techniques based on norm-referenced or standardized tests for basic skills.

d. Accountability results are to be reported to the state legislature in nine states and the citizens in six states. Multiple audiences are reflected in seven of the states.

e. In 10 states, accountability information is to be used for program evaluation and improvement. Five states have asked that accountability material be used in conjunction with pupil performance.

II. Educational Management Methods

Eleven states have legislation calling for improvements of educational management. These laws relate to program planning, budgeting systems (PPBS), management information systems and uniform accounting systems. Some of the characteristics of this legislation are:

a. PPBS is emphasized in seven states and the uniform accounting system in the other four states.

b. In 10 states, administrative control for the legislation is centered in the state board or the department of education.

c. Seven states require a cost performance analysis, a program analysis for performance objectives and a standard budget format.

d. Management methods are mandated for local school districts in seven states, for the state agency in three states; they are on a voluntary basis in one state.

e. Accountability results are to be reported to state legislators in seven states. In four states, they are to be reported to legislators, state boards and departments of education and the public.

III. Performance-Based Evaluation for Certification of Educational Personnel:

Eight states have enacted legislation in this area. Specific features of these enactments are as follows:

a. In five states, the development of an evaluation system is the responsibility of the local school district.

b. In six states, certified teachers are the subject of the evaluation; in four states, certified teachers in conjunction with administrators and supervisors are the subject of legislation.

c. Six states require that procedures and techniques for assessing teacher performance be developed.

d. Written evaluation reports must be discussed with educational personnel in four states, with the employee having the right to appeal in two of the states.

Legislation introduced in 1973 appears on the surface at least to differ from the bills introduced in previous sessions. Broad sweeping legislation (i.e. Colorado, 1971) which passed with a minimum of opposition in past years is having more difficulty this year. An example is Georgia's accountability package, HB367, 368, 369. A consistent effort by the Georgia Education Association probably was one of the factors in the bill's committee demise.

Other 1973 trends include an Inspector General for Education (New York); more power to the state auditor for fiscal management (Utah); a

pilot program (Texas); greater involvement of the community in accountability efforts (Arizona, California, Florida, New Jersey, North Carolina, Tennessee, Virginia); statewide goals (Oregon); and an accountability program introduced under existing laws by the issuance of a new regulation for the evaluation and supervision of schools (Illinois). An interesting situation exists in Colorado where two bills have been introduced to repeal existing accountability legislation while a separate bill mandating a commission on accountability and postsecondary education has also been introduced.

Court Case

Until recently the impetus for accountability programs has been associated with the legislature. Typically, management (state boards of education, public school boards, superintendents and other administrators) has taken the initiative in this legislation while labor (teacher associations, AFT, teachers in general) has been opposed. In December 1972, a court case, *Peter W. Doe vs. San Francisco Unified School District*, raised the question, "Can schools be legally responsible if a child fails to learn to read and write at an adult level?" The relationship of an education malpractice suit to accountability obviously has not been explored. The potential for creating a new impetus for accountability, however, does exist.

At issue is the claim that a student was graduated from high school with the ability to read and write only at the fifth grade level. The student's mother claims that the schools defrauded her when they repeatedly assured her that her boy was progressing normally in school. The significance of this court case to accountability is almost assured no matter which way the case is decided. The burden of proof rests heavily on the side of the student to show that the school, not the family or the individual

is at fault. Even if this argument cannot be sustained, the whole process of reporting student progress to parents, and even the high school diploma itself, will certainly be open to question and improvement through accountability-type legislation. It might be appropriate to ask if the presence or even threat of malpractice suits will force the educational profession (labor and management) further apart or back together on the accountability issue.

Summary

Using 1973 trends to predict the future, it would appear that accountability legislation from now on will be introduced in smaller pieces. More emphasis will be placed on changing existing programs, such as changing teacher certification to performance-based teacher certification. A decreased emphasis will be placed on global-type accountability packages and more emphasis will be placed on making all new legislation more accountable. Community involvement, statewide goals, management by objectives, PPBS budgeting and fiscal accountability legislation will probably all see an increase in emphasis.